THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No.20150 of 2006

Date 05-10-2007

Between:
Sri N.Pulla Reddy & others.

..... PETITIONER

AND

Union of India rep. By its Deputy Secretary to Govt. of India, Ministry of Home Affairs, New Delhi & others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.20150 of 2006

ORDER:

Heard the counsel on record.

The writ petitioners filed the present writ petition seeking a direction to the first respondent to consider their applications for sanction of Freedom Fighters pension.

It is stated that the petitioners, who belong to Nalgonda District, had participated in the Freedom struggle during the year 1947 to 1948 against the Nizam Government and had also stopped payment of levies and taxes to the Nizam Government and had participated in the attack with arms and animation against police camps of Nizam Government at various places. It is further stated that they participated in encounters with Razakars and carried all sabotage activities, got trained in arms and ammunitions and destroyed the Tajkars camps, village records and hoisted the National Flag at our villages and neighbouring villages. It is also stated that based on the certificate issued by the respective camp-in- charge, petitioners made applications to the first respondent herein. It is further stated that as the applications of the petitioners were not considered, they filed W.P.No.30229 of 1997 and this Court directed the respondents to consider their applications, in accordance with the existing policy and provisions, if the applications were otherwise in order and that the result be conveyed to them within three months from the date of receipt of that order. As the respondents had not considered the applications of the petitioners, they filed this writ petition seeking sanction of Freedom Fighter's pension on par with similarly situated persons under the scheme of "Swantantrata Sainik Pension". In the circumstances being left with no other option, the writ petitioners had approached this Court.

The communication in DO No.52/CC/98/2006-FF(HC), dated

21-02-2007 had been placed before this Court and it is stated at paras 3 and 4 as hereunder:

> "The writ petition came up for hearing in the High Court on 20-02-2007. Ld. Assistant Solicitor General of India at Hyderabad has informed that the Hon'ble High Court took an adverse view that claims are pending because the State Government has not yet furnished the requisite and mandatory verification report. It may please be appreciated that this Ministry cannot consider the claims in the absence of specific verification report from the State Government.
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> A brief note on the evidentiary requirements in normal cases of underground sufferings, as prescribed under the Swantantrata Sainik Samman Pension Scheme, 1980 is enclosed, for convenience and ready reference. It is, therefore, requested that the State Government may kindly examine the afore-mentioned two cases under normal provisions of the Scheme, urgently and send fresh verification reports to enable this Ministry to decide them expeditiously."

In the counter affidavit filed on behalf of the respondents, it is stated that the persons, who took part in the freedom movement in some way or the other, are not eligible for Samman Pension under the "Swatantrata Sainik Samman Pension Scheme, 1980" (the Scheme), that the specified category of freedom fighters, who fulfilled the conditions of the scheme by furnishing proof of claimed sufferings of the nature and in the manner specified in the scheme itself, are eligible for Samman Pension and that the claims of Samman Pension would be considered by the Central Government only when they are duly verified and recommended by the State Governments/U.T. Administrations concerned, provided the report indicates the basis of such recommendations are in accordance with the provisions of the Scheme, and, therefore, no action would be taken on the applications sent directly to the Central Government without routing through the State Government/U.T. Administrations concerned. It is further stated that as per the scheme, the verification and recommendation report is mandatory in view of the fact that the documents and other evidence, which substantiate the claims, are in the possession of the State Government/U.T.

Administrations and not of the Central Government. According to the respondents, the claim of the petitioners pertains to Border camp sufferings in Hyderabad Liberation Movement were not accepted initially as they did not fulfill the eligibility criteria under the Swatantrata Sainik Samman Pension Scheme, that the Central Government constituted a Special Screening Committee in 1983 under the Chairmanship of Shri Govind Bhai Shroff to scrutinize the applications of persons, who claimed suffering in the border camps during the Hyderabad Liberation Movement spanning the present State of Andhra Pradesh, Karnataka and Maharashtra in the erstwhile State of Hyderabad. Subsequently, it was decided in June 1985, with the approval of the Cabinet, to treat the sufferings in the Hyderabad Liberation Movement to be on par with underground suffering for the purpose of pension under the Pension Scheme and none of the participants have been qualified for grant of pension as their sufferings were not substantiated by the normal evidentiary requirements of the Pension Scheme. It is stated that the Hyderabad Special Screening Committee (H.S.S.C) (headed by Shri Govind Bhai Shroff) had made an extensive tour of the regions comprising the erstwhile State of Hyderabad with regard to various camps from which the armed struggle was waged and met the concerned officers of the concerned States, prominent workers of the Hyderabad Liberation Movement and other people before preparing the list of 98 camps (including 41 in Andhra Pradesh, 37 in Maharashtra and 20 in Karnataka) along with the names of the camp-in-charges. As against the estimated number of 11,000 participants of Hyderabad Liberation Movement, the Committee recommended only 7000 cases for pension to be granted. It is further stated that in December 1996, the Committee was reconstituted under the Chairmanship of Shri N. Giri Prasad, MP (RS) and on his death, in April 1997, Shri Ch.Rajeswar Rao, MLA, Andhra Pradesh was appointed as Chairman and at the instance of H.S.S.C., another 18 Border Camps were added in July, 2004 to the list of 98 camps, which had been earlier prepared by the

Shroff Committee. The last Committee headed by Shri Rajeswar Rao scrutinized all the old as well as new cases and recommended about 13,500 cases for grant of pension during April, 1997 and May, 1998. The Committee, thereafter, passed a resolution that all eligible cases had been considered and the claims not recommended by the H.S.S.C. are treated as normal cases of underground sufferings and processed as per the normal provisions of the Scheme. It is further stated that as number of complaints were received against the cases recommended by the Committee, the Committee decided to verify the genuineness from the State Government and on receipt of State verification reports, 3500 cases have been sanctioned. The Government of Andhra Pradesh, on receipt of many complaints, ordered the State Vigilance and Enforcement Department to conduct detailed enquiries into the claims of freedom fighters in four districts. Pending these vigilance enquiries, the final sanction of pension in these four districts (Karimnagar, Khamma, Nalgonda and Warangal) was kept in abeyance and on discovery of large irregularities during internal investigation into processing of H.S.S.C-recommended claims, it was decided in January, 2006 that no sanction or approval for calling Identification Documents may be given in any case till a bonafide and correct course of action is approved at the competent level. It is stated that, in a few instances, where pension had been sanctioned on the basis of State Government's verification reports, subsequent re-verifications have shown that the claimants were not eligible for pension as they were minors at the time of the movement, and that have cast a serious doubt on the verification of cases by the State Governments. The Director General (Vigilance & Enforcement) had submitted his report to the Government of Andhra Pradesh stating that several irregularities had taken place in sanction of pension to freedom fighters in the said four Districts and made certain recommendations to the Government of Andhra Pradesh, which are as follows:

(i) to constitute special teams for 100% verification;

(ii) to address the Government of India for cancellation of pensions

in which irregularities have been noticed;

(iii) to initiate action against the concerned officials;

(iv)to explore the possibility of involving services of Mandal Literary Officer/Mandal Education Officer/Head Master of the Village to assist the applicants in processing their proposals for sanction of pension and to avoid brokers; and

(v) to reconsider the issue of taking the entry of age as per 1995 voters list as conclusive evidence.

In the Vigilance report, action was initiated against certain Officials due to lapses in supervision and negligence while recommending the names of freedom fighters for grant of pension. It is stated that the claim of the first petitioner was considered by the Screening Committee and State verification report has been received in his case and as there were irregularities in large-scale, it was neither possible nor desirable to take any final decision regarding the claim of the first petitioner. It is also stated that though the Government of A.P. had forwarded the verification reports in respect of the petitioners 2 and 3, as their claims did not appear in the computerized records, they cannot be processed as recommended by the H.S.S.C. According to the respondents, the claims not screened/recommended by the H.S.S.C are treated as normal cases of underground sufferings and processed as per the normal provisions of the Scheme, and, therefore, the claims of petitioners 2 and 3 have been referred back to the State Government on 24-12-2003 for re-verification as normal cases of underground sufferings and fresh verification reports are still awaited and that it is not possible to process the claims of petitioners 2 and 3 till a verification report is received from the Government of Andhra Pradesh. In such circumstances, the relief prayed for cannot be granted.

Counter affidavit is filed on behalf of the third respondent stating that based on the report received from the District Collector, Nalgonda District, the proposals for sanction of Freedom Fighters

pension in respect of petitioners were forwarded to the Government of India, vide letters dated
13-03-2002 and 17-06-2003 and requested to intimate the decision taken in the matter vide letter dated 02-11-2006 as the proposals were pending before the Government of India. According to the rules of the Scheme, the Government of India alone is the competent authority either to sanction or reject the Freedom Fighters Pension under the Central Scheme.

The representations and also the order made in W.P.No.30229 of 1997 by this Court had been placed before this Court and the decisions in **Mukundlal Bhandari v. Union of India**[1] and **Government of India v. k.V.Swaminathan**[2] also had been placed before this Court. In the light of the respective stands taken by the parties, the consideration of the case of the first petitioner cannot be taken out for certain reasons which had been specified in the counter affidavit. In the light of the specific stand taken in relation to petitioners 2 and 3, the applications of petitioners 2 and 3 to be considered and disposed of, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is also made clear that if the relevant material is placed in relation to the first petitioner, his case also to be considered in accordance with law within the said period.

Accordingly, the Writ Petition is disposed of with the above directions. No order as to costs.

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05-10-2007

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[1] AIR 1993 SC 2127
[2] 1997(10) SCC 190